

(No. 841.)

Annex to the Report.

"MAGGIE CUMMINS."

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the formal Investigation held at Westminster on the 22nd and 23rd of December 1880, before H. C. ROTHERY, Esquire, Wreck Commissioner, assisted by Captain H. D. GRANT, C.B., R.N., Captain HIGHT, and Captain BEASLEY, as Assessors, into the circumstances attending the stranding and loss of the sailing ship "MAGGIE CUMMINS," of Aberystwith, near Tupilco, in the Gulf of Mexico, on the 5th of October 1880.

Report of Court.

The Court, having carefully inquired into the circumstances of the above-mentioned shipping casualty, finds, for the reasons annexed,—

- 1. That the loss of the vessel was due to the violence of the gale to which she was exposed whilst lying at anchor off Tupilco waiting for her cargo.
- 2. That the anchorages which she took up both upon her first arrival at Tupilco, and afterwards on her return, were safe and proper, and that on each occasion the master took reasonable precautions to secure a safe and proper anchorage.
- 3. That the cause of her remaining so long at Tupilco was the delay in the delivery of the cargo.
- 4. That on the morning of the 5th of October the weather was blowing a gale on the land, and that all proper measures were taken by the master to ensure as far as possible the safety of the vessel.
- 5. That the port chain parted by the violence of the gale, and that it was not slipped as stated by the mate.
- 6. That when the starboard cable was slipped, proper and sufficient sail was set with a view to endeavour to save the vessel.
- 7. That the master tried to wear the vessel, but that she struck before she had come round.
- 8. That the master went on shore for the purpose of expediting the delivery of the cargo, that he was justified in doing so, and that he was not absent longer than was necessary.
- 9. That the master was not during the voyage, or on the 5th or 6th of October, in a state of intoxication.
- 10. That the mate was frequently during the voyage in a state of intoxication, but that it has not been shewn whether he was so or not on the 5th or 6th of October.
- 11. That the mate was not justified in refusing on the 5th of October to obey the master's orders to slip the cable.
- 12. That every effort was made by the master that could be made to save the vessel.
- 13. That the master would have been justified, after the port chain had parted, and the ship had begun to drag, in beaching her, but that we do not think that he attempted to do so.
- 14. That the loss of the vessel was not caused by the deck cargo, and that the cargo was properly stowed.
- 15. That the master was not in any way to blame, but that the mate was in default, although such default did not, so far as appears, cause the loss.
- 16. That proper and sufficient food was supplied to the crew.

For his wrongful acts and defaults, the Court orders the certificate of William Llewellyn, the first mate of the "Maggie Cummins," to be cancelled.

The Court is not asked to make any order as to costs.

Dated the 23rd day of December 1880.

(Signed) H. C. ROTHERY, Wreck Commissioner.

We concur in the above report.

(Signed) EDWARD HIGHT,
HENRY D. GRANT,
 Captain, R.N., } Assessors.
THOS. BEASLEY,

This case was heard at Westminster on the 22nd and 23rd of December instant, when Mr. Israel Davis appeared for the Board of Trade, and Mr. Nelson for the master and owners of the "Maggie Cummins." Four witnesses having been produced by the Board of Trade and examined, Mr. Israel Davis asked the opinion of the Court upon the following questions, viz. :—

- 1. What was the cause of the loss of the "Maggie Cummins"?
 - 2. Whether upon her arrival at Tupilco she took up a safe and proper anchorage, and whether after her departure therefrom, and upon her return to the place, she again took up a safe and proper anchorage; and whether the master took reasonable and proper precautions to secure a proper anchorage on her first arrival at Tupilco and on his return thereto?
 - 3. What was the cause of her remaining so long at Tupilco?
 - 4. Whether on the morning of the 5th of October the weather was blowing a gale on the land, and if so, whether proper measures were taken to ensure the safety of the vessel?
 - 5. Whether the gale was such that the port chain parted, or whether it was slipped, as stated by the mate?
 - 6. Whether, when the starboard cable was slipped, proper and sufficient sail was set, with a view to endeavour to save the vessel?
 - 7. Whether the master tried to wear the vessel, or whether he steered her direct for the beach?
 - 8. What was the cause of the master going ashore, and leaving the mate in sole charge of the vessel? and whether the master was justified in going ashore, and whether he was absent from the vessel longer than was expedient?
 - 9. Whether during the voyage, or on the 5th and 6th of October, the master was in a state of intoxication?
 - 10. Whether during the voyage, or on the 5th and 6th of October, the mate was in a state of intoxication?
 - 11. Whether the mate was justified in refusing on the 5th of October to obey the master's orders to slip the cable?
 - 12. Whether every effort was made that could be made to save the vessel?
 - 13. Whether the master was justified in beaching his ship, or whether she was wilfully cast away?
 - 14. Whether the loss was caused in all or in part by the deck cargo, and whether the deck and other cargo was properly stowed?
 - 15. Whether the master and mate were, or either of them was, in default, and whether such default caused in all or in part the loss?
 - 16. Whether proper and sufficient food was supplied to the crew?
- Mr. Israel Davis also stated that "the Board of Trade are of opinion that the certificates of the master and mate should be dealt with."
- Mr. Nelson then recalled the master, and produced three witnesses, who were examined; and, after hearing the mate in his own behalf, Mr. Nelson for his parties, and Mr. Israel Davies in reply, the Court proceeded to give judgment on the questions on which its opinion had been asked. The circumstances of the case are as follow :—

The "Maggie Cummins," which was a brig of 294 tons, belonging to the Port of Aberystwith, was built at Egmont Bay, Prince Edward's Island, in the year 1873, and at the time of her loss was the property of Captain Michael Davies, the master, of Mr. Lawrence John Greensmith, and of Messrs. Samuel and Lewis Enoch; Captain Davies owning one half of her, and Mr. Samuel Enoch, who resides at No. 7, Church Street, New Quay, in the County of Cardigan, draper, being the managing owner. She left London on the 1st of May last with a general cargo and a crew of nine hands all told, for Barbadoes; and having there discharged her cargo, she proceeded in ballast to Frontera de Tabasco in Campeachy Bay, to load a cargo of mahogany, in pursuance of a charter party which had been entered into by the master before she left England. She arrived at Frontera de Tabasco on the 15th of July; and on the 20th received orders to proceed to Tupilco, there to take in her cargo. On her arrival at Tupilco, where there is only an open roadstead or strand, she came to

anchor at about two or two and-a-half miles from the shore, and in about five fathoms of water; and on the 10th of August following, the first raft of timber came alongside, and a stevedore and gang having been engaged it was taken on board. On the 15th another raft arrived, but it being Sunday, the crew refused to take it in; and that night, five of the hands, consisting of the cook and steward, two able seamen, an ordinary seaman, and a boy named Henry Barnes (two of whom had been shipped at Barbadoes in place of two who had been there discharged), left the vessel in the long boat, taking with them a number of articles, and 7*l.*, which had been stolen from the captain's chest. These men subsequently landed, we were told, some distance down the coast, and in doing so two of them were drowned; but none of them ever rejoined the vessel, and she was consequently left very short-handed, with only the master, mate, boatswain, and one able seaman. On the 22nd or 23rd of August the master received orders to go some 20 miles down the coast, for the purpose of picking up a raft of timber which had been intended for a ship that had been lost upon the coast; and having done so, the vessel returned to Tupilco, and came to anchor as nearly as possible in the same place. From this time the timber came alongside, but apparently very slowly, owing, as we are told, to the want of water in the river, which prevented the rafts coming down; and with a view to expedite the delivery, the master was obliged frequently to go on shore, and was occasionally prevented from returning on board the same night. Up to the 20th of September the vessel had been riding with only the port anchor down, but on that day the wind came on to blow hard from the northward, which obliged them to let go a second anchor, and they rode out that gale with 75 fathoms of chain to the port anchor and 45 to the starboard anchor. So far there is practically no conflict of evidence, but it is as to what subsequently took place that the witnesses differ. According to the master, the vessel continued to ride, with both anchors down, until the 5th of October, when, between 10 and 12 o'clock in the morning, a strong gale sprang up from the N.N.W., gradually increasing to a hurricane, upon which he ordered 95 fathoms to be paid out on the port anchor and 65 fathoms on the starboard anchor. He told us that there was a strong current setting along the coast to the east, which canted the vessel's stern, and thus brought the wind about two or three points upon the starboard bow. At about 12.30 the port chain parted, on which, finding that the vessel was driving towards the beach, he ordered the jib and foresail to be set, slipped the starboard anchor, and being unable to stay her, he determined to wear, in the hope of clearing the beach. Before, however, she could be got round, and whilst her head was pointing directly for the shore, she struck upon a bank running parallel to and at a little distance from the beach, and with a channel of deeper water inside; and whilst in this position, a Dutch vessel, called the "America," which had either slipped or parted from her cables, came along the deep channel between the bank and the beach, and carried away the "Maggie Cummins" jibboom and bowsprit. This is the story which we were told by the master; but, according to the mate, the vessel was wilfully cast away by the master, both anchors having been slipped when there was no necessity for doing so, and when, to borrow an expression which we find in a letter from him to the managing owner, Mr. Samuel Enoch, the weather was "very moderate." Be this as it may, the vessel, as soon as she had taken the ground, began to beat heavily on the bank, and as she was fast breaking up, the master ordered the fore and mainmasts to be cut away, which was accordingly done. Two Manilla men who were on board, and the able seaman, then got ashore by swimming through the breakers; but the master, mate, and boatswain remained by the vessel, and when the gale had abated, they were able to wade to the shore, the water, which during the height of the gale had risen several feet on the beach, having again receded, leaving the "America" high and dry. There were, it seems, three vessels at the time in the roads—the "Maggie Cummins," the "America," and a German vessel called the "Heinrich Sellschopp," which was anchored about a mile and-a-half further up the coast; and all three went ashore that same day, and were totally lost.

These, then, being the facts of the case, the first question, upon which our opinion has been asked, is, "What was the cause of the loss of the 'Maggie Cummins'?" And our answer to this question must depend upon whether we give the greater credit to the

master's or to the mate's statement. According to the master, the loss of the vessel was due to the extreme violence of the gale, which caused the port chain to part, rendering it necessary to slip the starboard chain to endeavour to wear her off the shore. According to the mate, the vessel was wilfully cast away, both chains having been slipped when there was no necessity for so doing, and when the weather was "very moderate;" and, certainly, if the master did slip both chains and run the vessel ashore when the weather was "very moderate," there would be a fair presumption that he had intended to cast her away. It may be well, therefore, to inquire what are the grounds on which the mate has brought so serious a charge against the master. He told us that before the day on which the vessel went on the beach, he had frequently heard the captain say that he intended to throw her away. His words, he said, were, "We can get no charter; we have no crew; I can't do nothing, and we must go on the beach." The mate also told us that the "America" had been wilfully put ashore by her master, for that he had frequently heard the two captains talking together on the subject, and that the captain of the "America" had said that his vessel was so much in debt that there was nothing for it but to put her on the beach. And in reply to a question put to him by Mr. Nelson, the mate seemed to be under the impression that the third vessel, the "Heinrich Sellschopp," had also been purposely put on shore by her master. It certainly does appear very extraordinary that two, if not all three, of the vessels which were then at anchor in the roadstead, should have been put ashore by their captains in weather which was so "very moderate" that there could be no doubt in the minds of all the crews, and of all the people on shore, that it was deliberately intended to wreck them. The charge, to say the least of it, is in the highest degree improbable; moreover, there are some grave inconsistencies in the mate's statement, which we find it extremely difficult to reconcile. He told us that one of the reasons given by the master of the "Maggie Cummins" for wishing to throw his ship away was because he could get no charter; but, as a fact, he had a charter, into which he had entered before he left this country; and I am told by the Assessors that it was a very good charter, being at the rate of 67*s.* 6*d.* a ton. Again, is it likely that the masters of the "Maggie Cummins" and "America," if they had intended to throw their ships away, would have taken the mate, between whom and the master of the "Maggie Cummins," at least, there seems not to have been a very good feeling, into their confidence? Is it likely that they would have talked about it, as he says, in his presence, knowing well that, if the charge were substantiated, they would subject themselves to the most severe punishment? The charge is in the highest degree improbable, and it rests upon the wholly unsupported statement of the mate. On the other hand, the master's narrative is consistent throughout, and is strongly supported by the fact that every vessel that happened to be in the roads at the time went ashore and was wrecked. He is also confirmed by the boatswain, who, although he is the master's nephew, is not on that account to be disbelieved. On the whole, we have no hesitation in saying that we believe the evidence of the master, confirmed as it is by that of the boatswain, rather than the very improbable and wholly unsupported statement of the mate.

Whilst, however, we are thus compelled to reject the mate's evidence, we are unwilling to believe that in making these statements he has intended to commit wilful and deliberate perjury; although the letters which he wrote, his communications with Henry Barnes, the boy, and especially the offer which he made to the underwriters to give them valuable information in regard to the loss of the vessel if they would give him 50*l.*, might seem to point to a different conclusion. It seems that about two years ago, and shortly before he joined this vessel, he was confined in a lunatic asylum, and we are therefore disposed to take the more lenient view that these charges against the master were made in the firm belief that they were true, but under the influence of a delusion to which persons in his unfortunate position are not unfrequently subject. The mate, moreover, admitted that it was not the first time that he had made a similar charge, for that he had been wrecked about three years ago off Yarmouth, on the coast of Norfolk, and that on that occasion he had accused the master to the underwriters of having wilfully cast away the vessel. Little reliance can, therefore, be placed on his statements.

Before, however, we proceed to the next question, it

may be well, on which a course of the on this vessel had been purchased early part of been built in sum of 2,630*l.* upon her, they were also told Club for 1,300 making altogether Edward's Island seem, of soft insured at the admitted that than 5*l.* 10*s.* large sum. deduction would for I find by Insurance Co to be deducted case of loss of "charging c "an open str 70th Article deduction of event of loss "cargo or b "or roadstead there is to be event of the "of the Gul "the first of would thus b Quay Rules, Rules, from t making it 2, which would On the other which the m stores and p seems that t the fact of t would leave vessel. They think that t away.

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may be well, in justice to the master, to notice a subject on which a good many questions were asked in the course of the inquiry; I refer to the insurances effected on this vessel. We were told by the master that she had been purchased by himself and his co-owners in the early part of 1874, she being then a new vessel, having been built in Prince Edward's Island in 1873, for the sum of 2,630*l.*; and that after spending about 1,400*l.* upon her, they had had her classed A1 for seven years. We were also told that she was insured in the New Quay Club for 1,300*l.*, and in the Aberayron Club for 1,386*l.*, making altogether a sum of 2,686*l.* For a Prince Edward's Island ship, of 294 tons, built, as it would seem, of soft wood, and nearly off the letter, to be insured at the rate of about 9*l.* a ton, when the master admitted that her market value was probably not more than 5*l.* 10*s.* a ton, does certainly seem to be a very large sum. It is right, however, to observe, that some deduction would have to be made from this amount; for I find by the 95th of the Rules of the New Quay Insurance Company, as amended, that ten per cent. is to be deducted from the sum that would be payable in case of loss or damage "Whilst afloat at anchor, discharging cargo to, or loading cargo or ballast from, an open strand or beach." Again, I find that by the 70th Article of the Aberayron Rules, the same deduction of ten per cent. is to be made in the event of loss or damage "Whilst discharging or loading cargo or ballast upon or from an open beach, strand, or roadstead;" and by a previous section, section 66, there is to be a further deduction of ten per cent. in the event of the vessel "Being in or sailing from any part of the Gulf of Mexico or the Spanish Main, between the first of August and the first of January." There would thus be a deduction of ten per cent. by the New Quay Rules, and of twenty per cent. by the Aberayron Rules, from the amount payable by the insurance clubs, making it 2,291*l.* instead of 2,686*l.*, or about 8*l.* per ton, which would still be a very large sum for such a vessel. On the other hand, it seems that neither the freight, which the master estimated at about 1,200*l.*, nor the stores and provisions, were insured. Whilst, then, it seems that the ship itself was somewhat over-insured, the fact of the freight and provisions being uninsured would leave the owners losers by the wreck of the vessel. There is therefore nothing in this to lead us to think that the captain had sought to throw his vessel away.

The second question which we are asked is, "Whether, upon her arrival at Tupilco, she took up a safe and proper anchorage? and whether, after her departure therefrom, and upon her return to the place, she again took up a safe and proper anchorage? and whether the master took reasonable precautions to secure a proper anchorage on her first arrival at Tupilco, and on her return thereto?" Tupilco is, it appears, only an open roadstead, without a staff of officials, or any such regulations for the anchoring of vessels, as would naturally be found in a regular port. What, then, the master said he did was to get the best information he could about the place, and this he did from the captains of the vessels there lying at anchor, and from a stevedore whom he engaged to stow the cargo. What else the captain could have done we are at a loss to see, or who else he could have consulted on the subject; and there is nothing to shew that the anchorages which he took up, both on his first arrival at Tupilco, and afterwards on his return to the place, were not good and proper anchorages, being about 2 to 2½ miles from the shore, and in about 5 fathoms water.

The third question which we are asked is, "What was the cause of the vessel remaining so long at Tupilco?" The master has told us that, owing to there being so little water in the river, there was a difficulty in getting the rafts down, and that there was consequently great delay in the delivery of the cargo; and that he had frequently to go on shore to expedite it, having ultimately to serve a notice on the consignees that he should claim damages for the delay. The explanation seems reasonable, and it is not contradicted, and there appears therefore to be no ground to suppose that the master was in any way responsible for the delay.

The fourth question which we are asked is, "Whether, on the morning of the 5th of October, the weather was blowing a gale on the land; and, if so, whether proper measures were taken to ensure the safety of the vessel?" We have already stated, that in our

opinion there was a gale blowing on the land on the morning of the 5th, and that it increased to the force of a hurricane; one of those "Northerers" which are so well known upon this coast at certain seasons of the year. The measures, too, which the master took when the gale struck him appear to us to have been the best which could be adopted under the circumstances. In the first place, he veered out cable on both his anchors, and when the port cable parted, and he found the vessel was dragging towards the beach, he set sail and slipped the other cable, with the view of wearing her off the beach. We are quite at a loss to see what better measures he could have taken.

The fifth question which we are asked is, "Whether the gale was such that the port chain parted, or whether it was slipped, as stated by the mate?" We have already stated, that in our opinion the port chain parted by the violence of the gale, and that it was not slipped, as the mate has stated.

The sixth question is, "Whether, when the starboard cable was slipped, proper and sufficient sail was set with a view to endeavour to save the vessel?" According to the master, he set the jib and foresail; and, in the opinion of the assessors, those were the proper sails to set, if the master's object was to bring the vessel's head round. To have set any after sails, so far from assisting her, would have prevented her paying off.

The seventh question is, "Whether the master tried to wear the vessel, or whether he steered her direct for the beach?" The fact that the master set only the jib and foresail, would seem to shew that his object was, if possible, to wear the ship off the shore; but, as he has very fairly said, he hardly expected that she would go clear. And seeing that he had been warned not to go on the bar or to the westward of it, we are not prepared to say that he would not have taken the proper course had he, when the port chain parted, and he had to slip the other chain, steered her directly for the beach, so as to drive her as far up as possible, instead of running the risk of getting broadside on to it.

The eighth question which we are asked is, "What was the cause of the master going ashore and leaving the mate in sole charge of the vessel? And whether the mate was justified in going ashore? And whether he was absent from the ship longer than was expedient?" The object which the master had in going ashore was, as we have already stated, to hasten the delivery of the cargo; and on those occasions he had no option but to leave the mate in sole charge of the vessel. That he sometimes remained on shore two and even three days is quite possible, for I am informed by the assessors that gales sometimes spring up suddenly on this coast which make it impossible to get off again. In our opinion there is nothing to shew that the master was absent from the ship longer than was necessary.

The ninth question is, "Whether during the voyage and on the 5th or 6th of October the master was in a state of intoxication?" The charge of intoxication against the master rests upon the evidence of the mate and of a boy named Henry Barnes. As to the mate, we have already stated that his evidence is, in our opinion, entitled to very little credit. As regards the boy, Henry Barnes, it seems that he joined the "Maggie Cummins" from the training ship the "Exmouth," and was one of those who deserted in the long boat. The account which he gives is, that the other seamen drugged him, then bound him hand and foot, and put him into the boat; and that he never recovered his consciousness until about three o'clock that afternoon, when the boat was upset in the surf, on which occasion he succeeded in reaching the shore in safety, whilst two of the others were drowned. It is, however, a very extraordinary circumstance that, if he was in a state of unconsciousness when the boat upset, he should have been able to reach the beach in safety when two others of the crew, who it may be presumed were not in such a state, were drowned. The story is a strange one, and bears every appearance of improbability. The boy also admitted that soon after they had landed they all separated; and if he had been drugged, as he says, and forcibly taken away from the ship, then was his time to rejoin her; but he appears to have made no attempt to do so. There is also considerable discrepancy between the statements of the mate and the boy as to the time when the master is said to have been intoxicated. According to the mate, he was all right until after they had left Barbadoes, but that after leaving that place he was for about ten weeks almost continuously intoxicated; according to the boy, he saw the master constantly

drunk at Barbadoes, both on board the ship and on shore. Against these discredited witnesses, we have first the evidence of Captain Leonard, the master of a ship called the "M. A. Evans," who told us that he was at Barbadoes during the whole time that the "Maggie Cummins" was there, having arrived there about a week before her, and left very shortly after her; that both ships were consigned to the same brokers, he loading a cargo outwards, whilst the "Maggie Cummins" was discharging her cargo inwards. He told us that he was in daily communication with Captain Davies, frequently dining with him, seeing him both on board his ship and on shore, and that on an average he spent between two and three hours of every day in his company. He said that when they messed together, which they frequently did, at the ice house on shore, he generally had a glass of lemonade, and Captain Davies had the same; and that he never on any occasion saw the least appearance of intoxication in Captain Davies; and if there had been, Captain Leonard, being himself a teetotaller, would probably have been the first to detect it. Captain Leonard's evidence is, in our opinion, conclusive as to Captain Davies' sobriety whilst at Barbadoes. Another witness is Mr. Samuel Enoch, the managing owner, who has known Captain Davies for 20 years, and in whose vessels he has served for 13 years, and who told us that he is a cousin of Captain Davies, and that he has seen him repeatedly on shore, in his vessel, in the discharge of his duties, and at home, and that he never saw him the worse for liquor in his life. To this it should be added that Captain Davies has himself positively denied that he was ever intoxicated during the voyage, and he is supported in that statement by David Davies, the boatswain. We have therefore no hesitation in saying that the charge of drunkenness which has been preferred against Captain Davies by the mate and Barnes, is utterly undeserving of credit.

The tenth question which we are asked is, "Whether during the voyage, and on the 5th or 6th of October, the mate was in a state of intoxication?" No such testimony as that which has been given in favour of the master has been produced to establish the mate's character for sobriety; on the contrary, he has admitted that he does sometimes get drunk, but he denied that he was drunk on board the ship, or on the 5th or 6th of October. On the other hand, the master stated that he was frequently drunk, or had every appearance of being so; and the boatswain has told us that whenever the master went on shore and left the mate in charge of the vessel the latter began to drink. Unfortunately, too, the facilities for getting liquor were only too great, white rum being very cheap on the coast. The conclusion, then, to which we have come on the evidence before us is, that the mate was not unfrequently intoxicated whilst on board the vessel, and in the discharge of his duties; but whether he was so or not on the 5th or 6th of October last has not been clearly shown.

The eleventh question which we are asked is, "Whether the mate was justified in refusing, on the 5th of October, to obey the master's order to slip the cable?" The mate does not deny that he refused to obey the master's order to slip the starboard chain, or to assist in getting the vessel under way on the 5th of October last; and he attempts to justify his conduct by saying that he supposed that the master's intention was to wreck the ship, and that he would not lend a hand for the purpose. But we have already stated, that after the port chain had parted, the proper course was to slip the starboard chain and get sail on the vessel; and in refusing to lend a hand the mate was guilty of a very gross dereliction of duty, which, with the few hands they had on board, might have resulted in the loss of all their lives. Not only, therefore, was the mate not justified in disobeying the master's orders, but in doing so he has been guilty of a grave dereliction of duty.

The twelfth question which we are asked is, "Whether every effort was made that could be made to save the vessel?" In our opinion every effort was made by the master that it was in his power to make to save the vessel. The assessors think that he handled the vessel with great skill and courage, and that the saving of the lives of those on board was due to the way in which he managed her.

The thirteenth question which we are asked is, "Whether the master was justified in beaching his ship, or whether she was wilfully cast away?" I have already stated, that in our opinion the starboard

anchor was intentionally slipped, and that it was a proper course under the circumstances to take; and although the master says that it was his intention to wear the ship, if possible, we think that he would have been quite justified, after the port chain had parted, in beaching her.

The fourteenth question which we are asked is, "Whether the loss was caused in whole or in part by the deck cargo, and whether the deck and other cargo was properly stowed?" The only evidence that the cargo was not properly stowed is from the mate, whereas the master says it was well stowed, and we prefer to believe Captain Davies' evidence in preference to that of the mate. It is true that the master stated that, owing to some logs on deck, it was difficult to get a spring upon the cables; but, in the opinion of the assessors, it would have been impossible in the then state of the weather to have got such a spring on the cables as would have enabled them to cant her head in the other direction. And, in our opinion, the deck cargo had literally nothing to do with this casualty.

The fifteenth question which we are asked is, "Whether the master and mate were, or either of them, was in default? and whether such default caused in all or in part the loss?" As to the master, we do not think he was to blame in any respect. But it is different as regards the mate; he, in our opinion, is very greatly to blame for having been intoxicated when left in sole charge of the vessel, and for refusing to obey the master's orders on the 5th of October; at the same time, we are not prepared to say that either his misconduct or default contributed to the loss of the vessel; but that was not his fault. He did his best to risk the lives of those on board; but owing to the action of the master and the rest of the crew, the vessel was fortunately beached in such a position that they were saved. His conduct, too, was the more unpardonable, seeing that there were so few hands on board.

The sixteenth question which we are asked is, "Whether proper and sufficient food was supplied to the crew?" The evidence on this point has been very full and satisfactory. It appears, from the evidence of those by whom the provisions were supplied, that the bread, the pork, and the beef, were all of the best quality, and no distinction was made in the provisions for the cabin and the fore-castle. The mate himself admitted that they were good, and that he had nothing to complain of about them; and the only person who has said that the provisions were not good is the boy, Henry Barnes, whose word we are not disposed to believe. As regards, too, their sufficiency, it appears that, besides about 10*l.* worth remaining from the previous voyage, she had provisions of the value of from 75*l.* to 80*l.* put on board before leaving London, in addition to a butcher's bill for 10*l.* to 15*l.*; altogether about 100*l.* worth of provisions. At Barbadoes, too, and on the coast, the captain would naturally replenish his stock of fresh provisions. It would seem, therefore, that the vessel was not only sufficiently supplied with provisions, but they were of excellent quality.

Lastly, we are asked to say whether, in our opinion, the certificates of the master and the mate should be dealt with. Of course as regards the master's certificate there is no question, for in our opinion he is in no respect to blame. It remains to consider what should be done with the mate's certificate. It is true that the mate's misconduct has not, so far as appears, contributed to the loss of this vessel; but counsel for the Board of Trade has contended that the Act gives us power of dealing with the certificate of a master or mate in the event of his being found guilty of any gross act of misconduct; and our attention was called to the 242nd section of the Merchant Shipping Act, 1854, paragraph 1., the words of which are as follows:—"If upon any investigation made in pursuance of the last preceding section, any master or mate is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny, then the Board of Trade shall have the power of suspending or cancelling his certificate." It was said also that this inquiry was an investigation such as is contemplated by the Act, and that in such a case the Board of Trade would have power to deal with the mate's certificate; and as it would seem that the powers thus conferred upon the Board of Trade have been transferred to this Court, it would follow that we can deal with this man's certificate. This mate has been guilty of very gross acts of misconduct; first, in being intoxicated whilst in

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charge of this vessel, and, secondly, in refusing to obey the lawful commands of the master at a time when such refusal was calculated to endanger the lives of all on board. To whatever cause his misconduct is due, whether to intoxication, or to his not being fully responsible for his acts, he is in our opinion not a fit person to have the command of a vessel, and we shall therefore cancel the master's certificate which we understand he holds.

The Court was not asked to make any order as to costs.

(Signed) H. C. ROTHERY,
Wreck Commissioner.

We concur.

(Signed) EDWARD HIGHT,
HENRY D. GRANT,
Captain, R.N., } Assessors.
THOS. BEASLEY, }